



U.S. Department of Justice

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August 30, 2017

Honorable James Orenstein
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Barclays Capital, Inc., No. 16-CV-7057 (KAM/JO)

Dear Judge Orenstein:

We write to follow up on the letter the parties filed on July 11 (ECF No. 70) in the above-referenced case, addressing the concerns the Court raised at the June 12 conference and in the ensuing minute order (ECF No. 61) with respect to the parties' proposed protective order, and submitting a revised protective order for the Court's endorsement.

The Government has so far held off on commencing third-party discovery in anticipation of the Court's endorsement of the proposed protective order, so that it can properly inform third-party subpoena recipients of their rights under the order. For example, the Government has not yet served subpoenas on servicers, originators, and loan file custodians for the thousands of loan files the Government intends to re-underwrite. Nor has the Government to date served subpoenas on third-party financial institutions seeking documents and other information relating to their investments and involvement in the Subject Deals.

Because third-party discovery needs to begin soon for the parties to succeed in completing fact discovery within the times set forth in the Case Management and Scheduling Order (CMSO) (ECF No. 57), and barring directions to the contrary from the Court, the Government intends to begin serving third-party subpoenas on or about September 8 that attach the current draft of the protective order (ECF No. 70-1) and that contain instructions consistent with that draft. In the event the text of the protective order were to change after service of the subpoenas, we would then notify the subpoena recipients directly of any modifications to their instructions or rights.

Hon. James Orenstein

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We sincerely appreciate the Court's time and attention to this matter.

Respectfully submitted,

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